



# MAJOR AREA DISPUTES OF INDO-NEPAL RELATIONS: AN ANALYSIS

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## ABSTRACT

Nepal is a landlocked country flanked by India on three sides -east, south and west, with open borders on all sides. Due to their geographical proximity, the national interests of both nations overlap to a large extent. As neighbours, India and Nepal share a long alliance of mutual trust and cooperation, along with deep links between their politics and culture. Due to open borders between the countries people have enjoyed free movement across each other's territories. Despite the historical peaceful relations between India and Nepal, there exist many conflicts between the nations. The major area conflicts of Indo-Nepal have had blockade, smuggling, terrorism, political and economic issues cross border terrorism and more over an open border etc. India has voiced concerns about instances of illegal trading, pumping of Fake Indian Currency Notes (FCIN) and misuse of trade transit facilities by non-state actors in Nepal.

**KEYWORDS:** South Asian Disputes, smuggling, terrorism, blockade, mutual trust, trafficking.

## INTRODUCTION:

Nepal has a distinctive position in the South Asian region, both geographically and politically. As neighbours, India and Nepal share a long alliance of mutual trust and cooperation, along with deep links between their politics and culture. Due to open borders between the countries, their people have enjoyed free movement across each other's territories. Nepal's unique location in the Himalayan belt has not only made it valuable for India's northern defence, but also had a huge impact on Nepal's relationship with India.

Nepal is a landlocked country flanked by India on three sides -east, south and west, with open borders on all sides. Due to their geographical proximity, the national interests of both nations overlap to a large extent. Over the years, India and Nepal have maintained close-knit, steady and mutually advantageous relations, with occasional conflicts.<sup>1</sup> Porous border between the countries implies that both Nepalese and Indian can move across the border without documents and restrictions like passports or visas may reside and work in either country. Political relations with these neighbouring countries are two of the most significant international relations of Nepal, mostly due to its geopolitical realities, which make it a valuable and indispensable neighbour.<sup>2</sup> No two neighbouring countries in the world share as many similarities and interact as comprehensively on a regular basis than India and Nepal, both at governmental and civic levels. Bilateral ties between the nations are long-standing, deep rooted and interdependent, despite recurring conflicts and complexities borne out of clashing narratives of the emerging dynamics.

India and Nepal have historically maintained close relations because of their geographical locations and overlapping religious, linguistic and cultural identities.<sup>3</sup> Settler groups from outside arriving in the country have contributed to making it multi-ethnic, multi-cultural and multi-lingual.<sup>4</sup> The Indo-Nepal Treaty of Peace and Friendship, signed on July 31, 1950, is a bilateral treaty that first established a close alliance between the South Asian neighbours. The treaty allowed open borders and free movement of citizens and goods between the countries and a collaboration in issues of defence and foreign affairs.<sup>5</sup> India and Nepal commenced their relationship with the 1950 Peace and Friendship Treaty that expounded strategic relations between them, and laid out an agreement governing bilateral trade and trade transiting Indian soil. The treaty forms the base of the unique partnership that exists between India and Nepal.<sup>6</sup> The treaty cleared the way for extensive cooperation on strategic issues and required both nations to consult each other on issues of regional security.<sup>7</sup> The treaty was signed with the aim of strengthening the relationship between India and Nepal by recognising common historical values and maintaining peace in the region. The treaty, along with the letter of exchange<sup>8</sup>, contains 10 articles, which are as follows:

- Article 1, in which the two countries acknowledge each other's territorial integrity and sovereignty.
- Article 2, in which the two countries are required to inform each other in case of conflicts with another neighbouring country.
- Articles 5,6 and 7 deal with arms and imports of Nepal, national treatment of citizens of either country in economic matters and reciprocal treatment to nationals in residence, protection and trade issues.
- Article 8, in which all previous treaties between Nepal and the British government stand cancelled.

- Articles 9 and 10, which deal with the renewal and cancellation of this treaty.<sup>9</sup>

Both countries reached a consensus to review and update the treaty, keeping in mind the changing security and economic realities of the time.<sup>10</sup> India and Nepal share strong cultural and traditional bonds and people-to-people connections. Indian culture is well-known to all strata of Nepalese society.<sup>11</sup> There have been enough reports of the open border being abused local criminal gangs for smuggling of subsidised consumer goods and exploitation of common people on both sides to warrant an action. Since people from both sides of the border share in these illegal and abusive activities, life is hell for the population living in the border region and the relations between the two countries remain unstable.

When an earthquake measuring 7.9 on the Richter scale hit Nepal on April 25, 2016, India immediately provided food and rescue aid for the disaster-struck country. The operation Maitri, the massive rescue and relief operation initiated by India in Nepal saw the Indian armed forces rescuing thousands from the aftermath of the earthquake. The enormous Humanitarian Assistance and Disaster Relief (HADR) task was jointly carried out by the IAF and Indian Army from April 25 to June 4. Within just four hours of the disaster striking, the IAF began their rescue preparations and routed one C-130J aircraft, two C-17 and one IL-76, airlifting 295 NDRF personnel and about 46.5 tonnes of relief material.<sup>12</sup> This relief material included water, field hospitals, blankets, tents, paramedics, stretchers, medicines, prepared food, milk, utensils, vegetables, Meals Ready to Eat (MRE), RO plants, oxygen regenerators, Air Force Communication Centre Vehicles, Rapid Action Medical Teams with its transportable operation theatre, X-ray, laboratory and patient beds, and was airlifted for the duration of the entire rescue operation of a month.

Nepal signed a Power Trade Agreement with India on February 22, 2016, with Nepalese Prime Minister Mr. K. P. Sharma Oli commenting, "I have been informed that Government of India is reviewing its policy and promoting public-private partnership, including in large-scale infrastructure projects." As for economic cooperation between India and Nepal, Prime Minister Mr. K. P. Sharma Oli said, "Our doors are always open for investment in almost every sector, including manufacturing, hydropower, tourism, services, IT, mining and agro-based industries. Hydropower is our preferred choice in this field, as are solar energy and biomass, which also have good possibilities."<sup>13</sup>

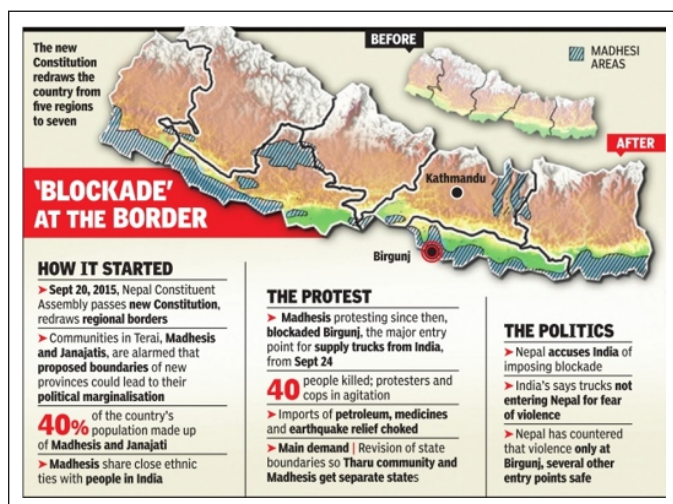
While there are several issues on which India and Nepal are in agreement, because of their amicable relationship as neighbours, there are also conflicts and debates regarding some issues, which is but natural. The issue of open border is one such issue. Just like every coin bears two faces, the open border system has had its pros and cons for both the nations. However, Nepal has borne the brunt of a large percentage of these negative impacts compared to India. If one was to make a list, the negative would outnumber the positive for Nepal. Despite the historical peaceful relations between India and Nepal, there exist many conflicts between the nations. India has voiced concerns about instances of illegal trading, pumping of Fake Indian Currency Notes (FCIN) and misuse of trade transit facilities by non-state actors in Nepal. In spite of Nepal's assurances of taking appropriate steps to prevent these activities, anti-India elements are thriving in Nepal, taking advantage of its political instability. This has led to India modernising four important Integrated Check Points (ICPs) and increasing deployment of the Sashtra Seema Bal (SSB) personnel at the Indo-Nepal borders. SSB border posts have been expanded to 100 and SSB commandos are routinely being deployed for the effective surveillance of 22 trading posts, including 15 transit points to

Nepal.<sup>14</sup>**MAJOR AREAS OF CONCERN WITHIN INDO-NEPAL RELATIONS:**

**1. BLOCKADE:** The Indian blockade on Nepal happened on September 23, 2015, as India began tightening the passages of Nepal-bound goods carriers passing through all the entry points, citing increasing incidences of violence in the areas bordering Nepal. Sashastra Seema Bal (SSB) deployed at the border began stopping all goods carriers at the Indian side. Out of the six entry points, Sunauli-Bhairahawa route is the busiest one as about 300-400 goods carriers pass through it daily to enter Nepal. On September 24, however, only four vehicles were allowed to enter Nepal from Sunauli.<sup>15</sup>

On September 25, Indian authorities did not cease stopping Nepal-bound goods carrier vehicles which were transporting LPG bullet tanks and oil tankers across Nepal-India border. Issuing a press statement, the Indian Embassy in Kathmandu divulged that the reported blockades to Nepal-bound cargo and freight were due to the violence, unrest and protests on the Nepali side of the border.<sup>16</sup>

Nepal's Ministry of Foreign Affairs expressed worry over the 'undue delay' in the movement and clearance of Nepal-bound carrier vehicles at the Indian side of the border. It was Nepal's first official statement since the disruption of goods and supplies started 3 days ago.<sup>17</sup> A four-month long blockade on the Indo-Nepal border began immediately after Nepal declared and adopted its new Constitution on September 20, 2015.<sup>18</sup> The blockade occurred along Nepal's southern border with India, around the Madhes or Terai region, once again due to prevailing protests in the area. The regular flow of goods and fuel to Nepal was blocked at border check points. This led to one of the worst humanitarian and geo-political crisis in the Himalayan belt as fuel, medicines and other necessary items of daily life could not reach Nepal from India. Nepal's third-country trade also suffered setbacks due to this blockade, as India is its transit route to other nations. This instance draws attention to the issues faced by a landlocked country like Nepal, and the various rights it is entitled to under international conventions.

**Impact of the blockade:**

As Nepal is completely reliant on fuel supplies from India, the month-long blockade had a severe impact on the social, economic and humanitarian situation in Nepal. Fuel shortages caused by the blockade have wreaked havoc on day-to-day life in Nepal and brought its economy to a standstill. A brief account of the areas of impact is as follows:

**A) Education:** The constant blockade by India has hit Nepal's academic sector very hard, leading to a complete shutdown of schools in the country. The fuel crisis has impacted millions of students, including around one million school students from the valley alone.<sup>19</sup>

**B) Health:** Another major sector that was hit by the blockade was the health sector. Hospitals are gradually becoming incapable of providing health care services as the blockade has led to the shortage of oxygen, medicines and blood supply. Without these vital supplies, it is impossible to run a hospital. The dispensaries will also run out of life-saving medicines if the economic blockade persists any longer.<sup>20</sup> Major public hospitals in the Kathmandu Valley, including Bir Hospital, Teaching Hospital, Kanti Children Hospital, Patan Hospital, Civil Service Hospital, Gangal National Heart Centre and Paropakar Maternity and Women Hospital are in need of about 1,700 litres of diesel, 200 litres of petrol, 18 cylinders of LPG and 245 cylinders of oxygen daily to be able to provide unrestricted services.<sup>21</sup> Essential vaccinations for children and life-saving drugs for cancer, cardio, etc. have been stranded at different airports.<sup>22</sup> Medicine providers across the country have run out of stock.<sup>23</sup>

**C) Drinking water:** The total demand of drinking water in Kathmandu Valley is over 350,000,000 litres daily. This is calculated based on the population of the capital, which is 3.5 million, but doesn't include the additional demand of potable water required by other sectors like hospitals, schools, hotels and businesses. The Kathmandu Upatyaka Khanepani Limited of Kathmandu Valley Drinking Water Limited, KUKL responsible for the supply and management of water and waste water services in the valley, supplies only about 150,000,000 litres, not even half the total demand for water in Kathmandu. As a result, the valley dwellers are facing one of the hugest drinking water shortages in history.

**D) Transportation:** The blockade ended up disturbing transportation at the height of national holiday season in Nepal, preventing Nepalese people from travelling to their ancestral homes and villages. As a result, multiple deaths were reported from traffic accidents caused by dangerously congested public transport. Passengers including women, children and the elderly were forced to travel precariously on the rooftops of buses.<sup>24</sup> The National Federation of Transport Entrepreneurs reported a loss of Rs200 to 250 million a day for the transport sector.

**E) Energy:** Nepal required about 1200 megawatts of electricity to meet the energy requirements of its people. The current production of hydroelectricity in Nepal stands at only 600 megawatts, with 180 mega watts being imported from India.<sup>25</sup> The rest of the energy demand is met using generators. Shortage of fuel supply due to the blockade has had a pretty bad impact on the operation of generators, plunging the country into an energy crisis. Similarly, there has also been an LPG crisis which has led to difficulties in preparing meals for residents of Kathmandu Valley. Several hotels and restaurants have been forced to shut down. The country's monthly LPG demand is roughly 32,000 tonnes, which increases 30-40 per cent during winters. The supply of LPG too has been cut by the Indian Oil Corporation since the unofficial trade and transit embargo.<sup>26</sup>

**F) Food:** Acute shortage of fuel has continued to hinder planned deliveries of relief aid to the earthquake-affected areas. According to the United Nations Humanitarian Coordinator's Office in Kathmandu, several tonnes of food material meant for the survivors is stuck in warehouses.<sup>27</sup> In addition to the earthquake-affected areas, several other food insecure villages of the country are also facing food scarcity due to obstructed supply, so much so that there is a possibility of mass hunger in the near future. In areas where food is still available, prices have shot up beyond the affording capacity of general people.

**G) Agriculture:** The blockade is also affecting the agricultural sector, with farmers not receiving improved seeds and fertilizers imported from India and other countries. Imported fertilizers are lying dumped along the Indian border owing to the transit blockade. This is a huge loss of the Terai region, often called Nepal's food basket, needs water and electricity supply for irrigation and to pump water. Farmers of the region have not been able to cultivate their lands due to the lack of fuel to operate water pumps and irrigate their fields.

**H) Economy and development:** All over Nepal, small as well as big industries have had to close business and development activities, including construction of essential infrastructure are at standstill.<sup>28</sup> The government's revenue and expenditure have both declined drastically as of October 23 of the current fiscal year, primarily due to the longstanding band of general strike in Terai region and the unofficial embargo imposed by the Indian government. According to the Nepal Rastra Bank (NRB), this year the Nepali government collected only Rs 77 billion in revenues as opposed to Rs 90 billion in the last fiscal year.<sup>29</sup> Likewise, Nepal's private sector business is losing around Rs 2 billion daily due to the strike and the blockade. The Federation of Nepalese Chambers of Commerce and Industry (FNCCI) and Nepal Chambers of Commerce (NCC) have issued warnings that the industrial sector is bound for disaster if the government does not announce relief packages for the business sector.<sup>30</sup>

**2. SECURITY ISSUES:** India and Nepal are facing security challenges on many fronts, from poor governance, energy, cyber security and terrorism to ethno-regionalism. The first step to resolving these challenges lies in effective coordination among agencies, which can improve failure of security. There is a dire need for Nepal's political parties to recognise that their internal security can only be ensured only if political parties agree to give up narrow party interests for this greater cause.<sup>31</sup>

Another related controversial issue within India-Nepal relations has always been India's security risks around the Himalayas, including in Nepal. Despite some changes in the dynamics, India's security stake in the Himalayan belt remains significant. China remains an important factor in the matters of Indian security which is more significant for the improvement in its relations with both India and Nepal. Security relations will remain a focus for India and Nepal because of their geo-political situation, seeing as the policy concerning the border has not changed and is still open and easily accessible. Unless the nature of the India-Nepal border somehow changes, Nepal

remains valuable for India from a security point of view.<sup>32</sup> The security forces on both sides of the border are entrusted with the following duties:

- \* Preventing child trafficking across borders.
- \* Preventing unauthorised transaction of arms and amenities.
- \* Preventing transaction of fake currency.
- \* Checking for smuggling, the movement of contraband /illegal goods and import/export without customs clearance.
- \* Peace keeping, internal security around the border and preventing criminals from crossing the border.
- \* Ensuring security of customs check points, border areas and border pillars and prevention of trans-border crimes.

In addition to the Special Forces deployed especially for border security, many agencies also manage border affairs like:

- i. Intelligence agencies
- ii. Immigration offices
- iii. Custom offices
- iv. Anti-human trafficking cells of the Indian police

Curable measures are sorted out to control cross border crimes, prevent human trafficking, fake Indian currency smuggling, trafficking of narcotics and psychotropic substances, and work on effective coordination and communication at ground level between the APF and its Indian counterpart SSB.<sup>33</sup>

**3. POLITICAL ISSUES:** Nepal's political situation will play a crucial role in determining Nepal's future and the course of its relationship with India as well as the rest of the world.<sup>34</sup> The major players impacting Nepal's political situation are the mainstream political parties, the civil society and the Nepalese Army. The outcome of Nepal's political turmoil will largely depend on the interaction among these forces in the future. As of today, Nepal is in the middle of a political deadlock because of huge differences between its political parties on several issues ranging from the form of government, nature of federalism and integration/rehabilitation of Maoist protest groups to the competition between major political parties for a chance to lead the national unity government.<sup>35</sup> Nepal has a shot at stability if its political parties manage to reach a consensus to deal with contentious issues effectively and if the Maoists assure the people of their commitment to the democratic process. The open border has created the issue of dual citizenship where in due to the unrestricted movement of people across both countries, it has become tricky to distinguish a genuine Indian Nepali from other Nepalis. If the current state of political chaos continues, Nepal will only become further unstable and prone to a fresh round of political violence.

**4. WATER ISSUES:** Water issues between India and Nepal have majorly been affected by the bilateral ties between the two countries and a lack of appreciation of the other side's point of view. According to an article by Medha Bisht of the IDSA, the Kosi Agreement has not gone smoothly between the two countries. The Kosi Agreement was signed in 1954 to control the flow of the Kosi River and ensure management of floods. For this purpose, a barrage was to be built along the border, with embankments raised on either side of the river.<sup>36</sup> This project was also to be utilised for the purposes of power generation and irrigation. However, floods in the Kosi region had resulted in disputes over this agreement. In April 2008, a devastating flood hit the Kosibas in and displaced over 30 lakh people in India and 50,000 in Nepal. Both countries blamed each other for failing to avert such a massive disaster. According to Nepal, the flood was caused due to India's neglect in the upkeep of the embankments of the barrage. The Nepalese government held India responsible for the breach in embankment.<sup>37</sup>

India and Nepal have clashed over the issue of compensation regarding Kosi dam. India was required to provide compensation for the land it acquired in Nepal and any damages during the construction phase. India was also responsible for designing, building and operating the project. Nepal has alleged that it did not get a fair deal as far as the benefits of the barrage are concerned, seeing as the barrage benefited only 29,000 acres of land in Nepal despite having the capacity to irrigate 1.5 million acres. The project also caused the submergence of Nepal's territory and the accompanying displacement of its people and India is yet to provide any compensation for this as well. Moreover, Nepal has branded India's construction project as an act of encroachment on Nepal's territory and an attack on its sovereignty.<sup>38</sup>

**5. ECONOMIC ISSUES:** The political instability that has gripped Nepal since 2008 has badly hit the country's economic development and industrialisation efforts and made it dependent on India. Over the years, Nepal has

profited significantly from India-Nepal trade treaties and several other economic co-operation measures. However, Nepal's trade with India is running at a deficit as products from Nepal are unable to compete in the Indian market and Indian investments in Nepal are decreasing.<sup>39</sup> These economic factors are adding to the anti-Indian currently prevalent in Nepal. Every day, thousands of unskilled labourers from mid-western Nepal migrate to India in search of employment and are harassed in various ways –inhumane living conditions, much lower wages than their Indian counterparts, ill-treatment by employers and discrimination by security force personnel at the border and at airports. Even retired Gurkha soldiers from rural areas face intimidation from Indian officers when receiving retirement benefits.<sup>40</sup>

**6. SMUGGLING OR ILLEGAL TRADE:** Smuggling entails import or export of goods without paying customs charges or duties levied by the law. This kind of unauthorised trade is common through most border points, including Kakarbhitta, Biratnagar, Janakpur, Birgunj, Bhairahawa and Nepalganj corridors. Often, carriers of unauthorised trade usually load goods on their heads or on bicycles while crossing the border. According to a report,<sup>41</sup> only about 68 per cent of those living around Nepal-India border use authorised custom checkpoints for trade, with the remaining going through non-custom checkpoints. In fact, many farmers living in the border region engage in buying and selling of agricultural and livestock products at the border haat bazaars and other markets in each other's territory. The Nepalese people buy commodities of daily necessities like sugar, food grains, clothes, cooking oil, cement, fertilizers, electrical and electronic goods from the neighbouring Indian states of Bengal, Bihar, Uttar Pradesh and Uttarakhand. Goods of daily use are comparatively cheaper in India than Nepal. On the Indian side of the border, people buy goods originating from countries like China, Japan, Thailand, Hong Kong, Singapore and Taiwan that are easily available in Nepal. A lot of unauthorised trade in gold, Supari (betelnut) and tea also goes on along the border. Nearly, 55 per cent people living along the Nepal-India border engage in border trade for private consumption, and just 14 per cent do it for social functions. Carrier services for smuggling unauthorized goods into the country are usually found in cities some 15 km away from the border, with mostly children, women and other able people used to transport stuff on their heads or on bicycles. Peoples from bordering districts routinely come to the border markets to purchase goods for their household needs. Some people even come from as far as 100 km away to buy goods for social functions like marriages, death anniversaries, etc. The major reason for border trade movement of the people is clear - the cost benefit is immense. Sometimes people make the opportunity to trade a part of their outing with family, especially since they know that they are buying these goods at a cheaper price than all the additional costs are combined.

In a bid to check the menace of drug peddlers around the border, India's Sashastra Seema Bal has intensified its vigil of the area and assessed 20 days worth of operational activities and found that the smuggling of narcotics and child trafficking is emerging as the new trend developing on the Indo-Nepal border. Previously, it was Contrabands, forest produce and fake currency smuggling though human trafficking that were the concerns of the border security forces.

From mid-April 2016 to May 6, 2016, SSB has managed to seize over 2 kg of charas on the Nepal-UP border under Bahraich district at Nanpara, 200 gm of smack at the Maharaj ganj border of Nepal-UP, 220 gm brown sugar from the India-Nepal border in West Bengal and 2 packets of heroine worth crores from the Bathnaha border of Bihar. The total worth of the seizure of narcotics by the SSB has been Rs 2.60 crore, made in just 20 days, besides the 401 litres of Nepali liquor seized on the Bihar-Nepal border. Additionally, about ten children were rescued from human trafficking rackets operating along the Nepal-Bihar border.<sup>42</sup> A similar rise in drug peddling is also being seen on the Indo-Bhutan border, where the 61st Battalion of SSB recently seized about 350 Kgs of ganja worth Rs.24.50 lakh. SSB is committed to curbing the menace of drug peddlers in border areas and as a result, has intensified its patrolling in the areas.<sup>43</sup>

**7. CROSS BORDER TERRORISM & INSURGENCY:** Another issue plaguing the Nepal-India border is of cross-border crimes. The presence of terrorist and criminal groups in the border regions has posed a massive security challenge for both the countries, seeing as the unregulated border gives the criminal groups an escape route to evade police action by simply crossing the border. On one hand, the Ministry of Home Affairs of the Government of Nepal has disclosed that there are roughly 109 armed groups currently active in Nepal, with the majority of them based in the Terai bordering areas.<sup>44</sup> These are the groups that engage in abduction, kidnapping, extortion, human trafficking, smuggling fake currency and drug peddling among a host of other criminal activities. On the other hand, India has voiced concerns about the increased number of madrass as in the border region. As per TilakKak, the Director General of the Sashastra Seema Bal (SSB), about 1,900 madrass as have sprung up in the border region, with Indian security agencies keeping a watch on the activities of 50or 60 sensitive ones among them.<sup>45</sup>

Nepal has grown to become a haven for terrorist groups, smugglers and anti-



Indian elements sponsored by Pakistan's ISI agents have been reported using the Kathmandu-Delhi bus service to venture into Indian territory. The increase in the number of Muslim seminaries in the border areas is a serious concern for India.

A huge number of terrorism and insurgency related problems in India have linkages to unauthorised cross-border activities. Consequently, strict border management has become an indispensable part of India's internal security management. From the security point of view, the India-Nepal border became significant only recently, primarily due to persisting instability in Nepal and its increasing proximity to China.<sup>46</sup>

- 8. OPEN BORDER ISSUES:** The unregulated and open border is a cause for major security concerns for both India and Nepal. The open border has led to an increase in cross-border crimes, smuggling, fake currency peddling and infiltration of undesirable elements, including potential terrorists, into the Indian territory.<sup>47</sup>

India and Nepal signed the Treaty of Peace and Friendship on July 31, 1950, which pushed for the openness of border between the two nations. With Nepal adopting democracy in February 1951, a huge number of Indian nationals moved into Nepal, which further reinforced the policy of the open border. Indians migrated to Kathmandu to serve as politicians and advisors to Nepalese ministers, as technical experts, to become teachers, retailers, do business, etc. Similarly, the Nepali people were also free to move to Indian cities to find employment as guards, domestic workers and restaurant waiters. This is what makes the India-Nepal open border unique in the world – it allows people of both countries to cross the international border from any point or at any time, without any records, sometimes even crossing it several times a day.

Nepal's open border with India has led to arise in cross-border terrorism and smuggling of drugs and other contraband items. There is also an unrestricted flow of informal trade across the border of both countries, which needs to be curbed because bordering states are losing revenue from trade because of it. Formalising this flow of informal trade will lead to creation of jobs and incomes on both sides of the border. Nepali people crossing over to India to seek employment is quite common and as of now, more than 6 million Nepalis are employed in India.<sup>48</sup> Therefore, an open border system has positive as well as negative aspects for both countries.

#### Positive impacts of an open border:

- 1. Easy access:** The open border system guarantees easy movement across the border for people of both nations. They can move from India to Nepal and vice versa at their own discretion.
- 2. Strengthens relationships:** People to people relationships on both sides of the border have remained peaceful throughout the years due to free movement of citizens on either side of the border.
- 3. Haat bazars:** An open border holds multiple economic benefits for inhabitants of the border region, from easy selling and purchasing of livestock products to access to vegetables and daily kitchen needs goods in Haat Bazaars is said to be an open-roof markets that take place regularly, several days a week on both sides.
- 4. Rescue operations:** Open border has allowed prompt rescue services to reach both sides of the border during calamities and disasters.
- 5. Health services:** In case of an epidemic, health services can be provided to victims from both sides of the border.
- 6. Supply of labour:** During cases of shortage in local labour on one side, the other side can help solve the problem by supplying labour instantly.
- 7. Competitive market:** The existing competition between the businessmen in towns around the border benefits the consumers.
- 8. Supply of food grains and daily stuff:** Free and unrestrained movement across the border allows for prompt transportation of food grains and daily needs goods from either side of the border, to wherever there are shortages.

#### Negative Impacts of an Open Border or Border encroachment:

- 1. Cross-border terrorism:** An unrestricted border has opened up a safe passage for terrorist groups to enter India undetected. India has displayed concerns regarding Pakistani ISI agents possibly infiltrating India via Nepalese territory. However, it is the fact that Pakistanis travelling to India must cross Nepal first if they are using the land route. Additionally, there is the issue of Nepali Maoist terrorists wreaking havoc in border regions by being at war with the Nepalese army and police, resulting in the killing many innocent civilians in the hill districts of Nepal.
- 2. Trafficking of girls:** Annually, more than five thousand Nepali girls get trafficked into India and sold to brothels. U.N. Women Development Fund,

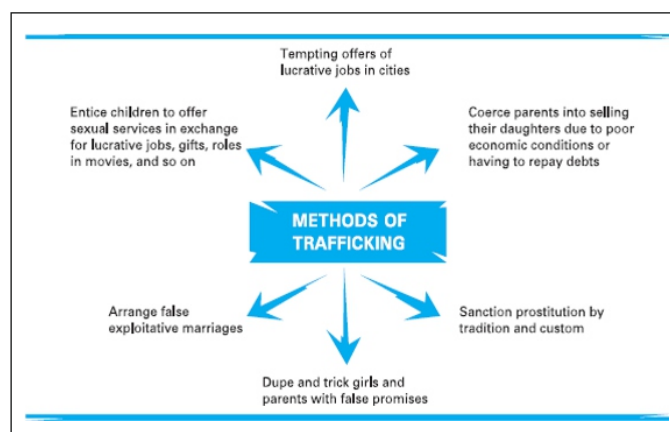
UNICEF's Nepal reports that till date, as many as 200,000 Nepalese girls and women have been trafficked into India. They frequently reside in the red-light areas and areas famous for prostitution in Bombay, Calcutta, Darbhanga, Betia, Siligurhi and other cities of India.

- 3. Illegal import of arms and ammunitions:** Tonnes of ammunition, including different types of guns, fire arms, gun-powder, grenades and its raw-materials used by Nepali Maoist terrorists, has been confiscated by the Indian army in the western hill districts. These unauthorised and unlicensed arms are frequently transported illegally from Nepal to India because of the weakness of the unrestricted border.
- 4. Smuggling of goods, material and machinery:** Market goods and merchandise also routinely gets transported between India and Nepal through the illegal entry points at the border, where there is often neither a custom nor a police post.
- 5. Smuggling of archaeological artefacts:** Archaeological artefacts, such as ancient bricks and materials from the Lumbini area that is the birthplace of Lord Buddha have been smuggled to India's Piprahawa. There are rumours that India planning to duplicate structures from Lumbini so as to popularise India as the birthplace of Buddha. India is being accused of trying to distort historical facts, and using the lack of a controlled border system to do so.
- 6. Cross-border crime:** Crimes such as murder, theft and rape have seen an increase in both the countries due to an open border.
- 7. Kidnapping:** Often, kidnapping of businessmen and children of influential families is made possible due to unrestricted movement in the border area.
- 9. MIGRATION ISSUES:** Migration across borders has created both direct and indirect problems for both India and Nepal from the security point of view. The Nepali migrants in India are spread over several cities from Delhi to Varanasi and Darjeeling to Sikkim, working as cheap labour. It is believed that migrants are squeezing out the resources of India, and also contributing to crimes such as theft, snatching, pick-pocketing, smuggling, and human trafficking to survive in harsh conditions.

Nepali migrants reside all over India while Indian migrants in Nepal in relegated to the narrow stripes of the Terai region. Several Nepali boys have become sons-in-law of Indian nationals, while on the other side of the border and Indian daughters are becoming daughters-in-law of the Nepalese. The border demarcation and border management conflicts can, therefore, be solved if citizens from all strata of the society, from common people to intellectuals, diplomats and politicians, continue to accept and make lively interactions with each other.

- 10. HUMAN AND CHILD TRAFFICKING:** In addition to illegal trading, cross border crimes and drug peddling, the open border has also given rise to the heinous issue of human trafficking. Human trafficking is an issue of serious concern globally and one of the most prevalent crimes in the modern world. It destroys and wreaks havoc on thousands of victims and their families annually, and indiscriminately impacts stable democracies, developing countries as well as countries immersed in war. International peacekeeping organisations, governments and non-governmental groups have declared human trafficking a contemporary form of slavery and branded it a crime against humanity.<sup>49</sup>

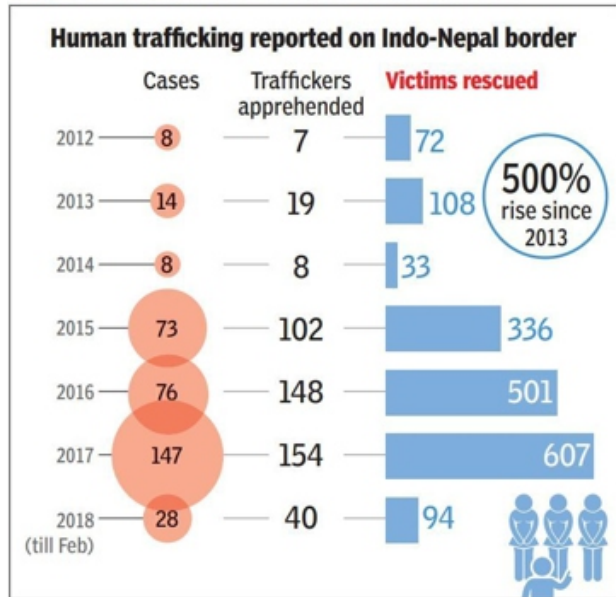
Human trafficking is a particularly serious issue in Nepal, with Nepali women and children being trafficked internally, to India as well as the Middle East for the purpose of commercial sexual exploitation and forced marriages. Trafficked children and women are also forced to serve as child soldiers, domestic help, in circus entertainment and as factory workers.<sup>50</sup>



Human trafficking is explained as the smuggling, selling and buying of

women and children for labour or sexual exploitation within or outside a country for monetary or other benefits with, or without, the consent of the person being trafficked. South Asian children and women are the most trafficked demographic in the world, usually for various forms of physical, financial as well as sexual exploitation. Nepal is frequently labelled the country of origin for human trafficking<sup>51</sup> and faces the critical challenge of increasing child and women trafficking. As India's most prominent neighbour, with open and unrestricted borders of about 1850 km, the thousands of children and girls being trafficked out of Nepal unfortunately either land up in India or are transported through India to other countries. Several human rights organizations have compiled statistics that reveal that till date, up to 2 lakh Nepali women and children have been trafficked out into neighbouring countries, with children aged 8 to 15 years making up a large part of the group. This issue has been greatly exacerbated by the bordering districts of Nepal, which due to open borders with India, have created safe havens for traffickers to transport the trafficked victims. The bordering areas have been notorious for giving rise to human trafficking for a long time. The reasons cited for this are usually weak socio-economic realities of these areas, as well as internal strife.<sup>52</sup>

## MOST CASES REPORTED IN 2017



The traffickers, usually men known as '*dalals*' and women known as '*didis*', are often sex workers themselves and bring girls between the ages of 9 to 16 to border towns before transporting them to India by bus. Agents in charge of luring the girls for trafficking and eventually, selling them in brothels are paid up to Rs 6,000 for every child they bring.

The border security force of India, the Sashastra Seema Bal (SSB) in their report 'Human Trafficking on the Indo-Nepal border' claims that the number of victims trafficked into the country has increased by 500 per cent since 2013, with girls being trafficked from border villages and the Terai region of Nepal and sold to brothel operators from Delhi, Mumbai, Kolkata and other cities for up to Rs 50,000. The SSB reported that the brokers travel by bus or train to Mumbai, Kolkata, Delhi and other Indian cities to sell these girls to brothel owners known as '*madams*' (female agents in India).<sup>53</sup>

Human trafficking is both an internal problem for India and Nepal and a trans-national issue, and spreads through many hidden pockets, which have neither been studied nor addressed thoroughly. It is a complex issue, cross-cutting nationalities and ethnicities, and is often linked to poverty, unemployment, gender-based discrimination, social exclusion, globalisation, internal displacement and migration.<sup>54</sup> The biggest mistake that governments make when addressing this issue is that they simplify and look at it as a standalone issue rather than linking it to the country's leading development plans and policies and tackling the roots of the problem.

Human trafficking in Nepal is associated with the following forms of exploitation:

- Sexual exploitation of Nepali women and girls, abroad but particularly in India, both commercially and domestically
- Exploitation of the labour of Nepali migrant workers
- Exploitation of Nepali children in the Indian circus industry

- Various forms of child labour
- For the purpose of illegal organ transplantation

Maiti Nepal is one of the organisations working in border areas for the past 14 years. As a part of their efforts to curb trafficking, they have mobilised 4-10 border guards to keep a watch on the Nepal-India border. They have also organised multiple awareness campaigns to bring the focus on and reduce women and girls' trafficking through the border and helped launch several anti-trafficking groups to effectively raise awareness as well as monitor illegal activities around the border.

The role of the SSB is to lead the border police forces in their collaboration with organisations like Prayas. The cooperation of border forces very critical since Nepal is often touted as the hub of international human trafficking, and India, being its only neighbour with an open border, is often the transit as well as the destination point for Nepalese victims. Some bordering districts of Bihar permanently act as transit points for Nepali traffickers. The victims of trafficking, often comprising of children and women, are freely transported through the open border routes and later, through the Indian Railways to the various Indian cities. Recently, the situation has become even more worrisome as the traffickers are making changes in their modus operandi by taking the air route instead of buses or trains, as it is the best way to evade the chances of being arrested.<sup>55</sup>

- 11. TRADE AND TRANSIT ISSUES:** India and Nepal routinely lose huge amounts of revenue to smuggling and illegal trade through the open borders. Nepal's issue with India has been in the areas of trade and transit, seeing as India only allows transit to Nepal for external trade because of its lack of an extensive transport network, while Nepal demands maximum transit rights from India. For a long time, India has pushed for linking of trade and transit issues in a bid to limit Nepal's overseas trade and consequently, curb the issue of large scale illegal trade on the India-Nepal border.<sup>56</sup> Nepalese traders also use Indian transit routes to leak goods imported from third-party countries, which is another problematic issue for India. The items they trade depend upon demand and supply, subsidies, transaction costs of official trade and differences in tariffs. Gold, sugar, rice, motor vehicle parts and fertilisers are the most smuggled items to Nepal from India.<sup>57</sup> Due to strict international laws and conventions for landlocked countries, Nepal is constantly suffering in regards to trade and transit issues.

India and Nepal's open border has been thoroughly misused by criminals, traffickers, smugglers and terrorists who become refugees in the other country after committing gruesome crimes in their own country. Drugs and arms are also smuggled in enormous quantities across the border. India and Nepal also clash a lot because of conflicting common interests of climate, agriculture, irrigation, silting and flooding deforestation, hydropower, vegetation in the border areas.

- 12. BORDER SECURITY ISSUES:** The border of India-Nepal is constantly under the danger of being misused due to a lack of coordination between security agencies of the two countries and the on-going political instability in Nepal. The border needs to be regulated by making modifications to the existing structures. It would be imprudent on India's part to expect support and cooperation from Nepal for effective border management. While the border should not be closed as it has several advantages for the border population who cross the border to seek employment, the disadvantages of an open border like cross-border crimes, infiltration by terrorists and insurgents, trafficking, illegal trade, border encroachment, etc. cannot be ignored. The unregulated border enables terrorist and criminal groups to cross the border and evade police action. Weak security systems in the border area have led to several cases of smuggling of opium, ganja, cattle, currency, sandalwood and gold. This illegal trade causes huge losses of revenue to both the governments. In places like Birganj, common people are scared to send their children out. As per media reports, notorious criminal Dawood Abraham has visited Kathmandu city several times in the past. Terrorists groups like the International Tigers have been reported to have a presence in Nepal. It is also believed that Nepal has recently become a haven for terrorists, smugglers and anti-India elements sponsored by Pakistan. Chinese intelligence and Pakistani ISI agents have reportedly been using the bus service from Nepal to India to infiltrate Indian territory.<sup>58</sup>

## CONCLUSION:

In a nut shell, the relationship of India and Nepal is based on historical, cultural, geographical and economic similarities between the countries. High level visits and interactions are routinely exchanged between the countries, with equal value and importance given to each visit. The porous border has given rise to several issues that have adversely affected relations between the two neighbours issues includes smuggling, drug peddling, human trafficking, crimes and border disputes related to differences economic priorities and government policies of the two countries. Coordination committees at local levels need to play a more active role in resolving some of these conflicts. India-Nepal need to work jointly towards resolving the border issues in a positive manner if friendly relations in the larger interest of the people are to exist between the neighbouring countries.

The modern-day India and Nepal initiated their relationship with the signing of the Indo-Nepal Treaty of Peace and Friendship in 1950's and the accompanying secret letters that expounded security relations between the two countries. An additional agreement governing bilateral trade and trade transiting Indian Territory was also signed between the countries. As far as border management is concerned, the open border system has brought about numerous problems in both social and economic aspects for India and Nepal. The most crucial of these issues are the free movement of the terrorists and smuggling of illegal arms and ammunition across the border. A free, uncontrolled and open border is prone to becoming the breeding ground for terrorist, criminal, illegal and anti-social activities. Indo-Nepal relations have recently seen a shift from peacefulness to disturbing and troublesome. India and Nepal must come to the conclusion to make their shared borders restricted to prevent terrorists, smugglers, human traffickers, criminals and narcotic peddlers from taking undue advantage of it while at the same time allowing genuine passengers and legal export and import to pass.

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